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20 *and the Potential Class*

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8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NORTHERN CALIFORNIA**
10 **SAN FRANCISCO DIVISION**

11 COURTNEY MCMILLIAN and RONALD
12 COOPER, on behalf of themselves and all others
similarly situated,

13 Plaintiffs,

14
15 v.

16 X CORP., f/k/a/ TWITTER, INC.,
X HOLDINGS, ELON MUSK, Does,

17 Defendants.
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Case No. 3:23-cv-03461-TLT

**PLAINTIFFS' REQUEST FOR
JUDICIAL NOTICE**

Honorable Trina L. Thompson

DATE: April 23, 2024

TIME: 2:00 pm PT

LOCATION: Courtroom 09

Opposition filed: February 9, 2024

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21 Plaintiffs Courtney McMillian and Ronald Cooper, on behalf of themselves and all others
22 similarly situated, submit this Request for Judicial Notice. Plaintiffs request that the Court take
23 judicial notice of documents filed with the U.S. Securities and Exchange Commission (SEC):

- 24 1. Form 8-K and attached Merger Agreement filed by Twitter, Inc. with the SEC,
25 dated April 25, 2022, attached as **Exhibit A**; and
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2. Form S-1, Exhibit 10.10 (“Twitter, Inc. Change of Control and Involuntary Termination Protection Policy”), filed with the SEC on Oct. 3, 2013, attached as **Exhibit B.**

For adjudicative facts that “can be accurately and readily determined from sources whose accuracy cannot reasonably be questioned,” the court “must take judicial notice if a party requests it and the court is supplied with the necessary information.” Fed. R. Evid. 201(b)(2), (c)(2). The documents listed above are publicly available documents filed with the SEC and their authenticity cannot be challenged. *See, e.g., Metzler Inv. GMBH v. Corinthian Colls., Inc.*, 540 F.3d 1049, 1064 (9th Cir. 2008) (judicial notice of publicly available financial documents including SEC filings was proper at motion to dismiss stage); *Dreiling v. Am. Exp. Co.*, 458 F.3d 942, 946 (9th Cir. 2006) (SEC filing subject to judicial notice). This Court may also take judicial notice of the contents of the Merger Agreement, attached to Twitter’s April 25, 2022 Form 8-K (Exhibit A), because it was alleged in Plaintiffs’ complaint. Dkt. 13, Amended Class Action Complaint ¶¶ 8, 40-48. A district court may consider documents “whose contents are alleged in a complaint and whose authenticity no party questions, but which are not physically attached to the [plaintiff’s] pleading.” *In re Silicon Graphics Inc. Sec. Litig.*, 183 F.3d 970, 986 (9th Cir. 1999).

For these reasons, Plaintiffs’ Request for Judicial Notice must be granted.

DATED: February 9, 2024

Respectfully submitted,

Sanford Heisler Sharp, LLP

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CERTIFICATE OF SERVICE

I hereby certify that on February 9, 2024, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send a copy of this filing to all counsel of record.

DATED: February 9, 2024



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**PLAINTIFFS' ADMINISTRATIVE MOTION TO CONSIDER WHETHER ANOTHER
PARTY'S MATERIAL SHOULD BE SEALED**